IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
BENCH AT JAIPUR

1. S.B. CIVIL WRIT PETITION NO.9909/07
Nitin Khulve Vs. The Rajasthan Technical University, Kota & Ors.

2. S.B. CIVIL WRIT PETITION NO.9672/07
Himali Saini Ors. Vs. Rajasthan Technial University & Ors.

3. S.B. CIVIL WRIT PETITION NO.9923/07
Amit Kumar Kuwal & Ors. Vs. Rajasthan Technial University, Kota & Ors.

Date of order : 4/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Rajneesh Gupta)
Shri Ravi Shankar Sharma)
Shri Manoj Bhardwaj) for the petitioners.

Shri A.K. Bhargava for the respondents.

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Since the dispute involved in the matters concern the students, the matters were heard for final disposal and are being decided by this common judgment.

The petitioners, who are students of B.E. (II Year), are desirous of appearing in

third semester of B.E. However the respondents are not permitting them to appear in the third semester on the premise that they have not passed 25% of the total papers in theory and practical separately.

Learned counsel for the petitioners submits that each of the petitioners have appeared in eight papers of the first and second semesters but have passed only in one paper and have applied for revaluation of the answer book in one and more of the subjects. Such applications in two of these cases were submitted on 11.9.2007, but in one case i.e. C.W. No.9909/07, it was submitted on 13.9.2007.

The learned counsel for the respondent submits that the result of the revaluation examination is likely to be declared within a month. Grievance of the petitioners is that in the meantime, the examination of third semester as per the

program notified by the respondent University is scheduled to take place from 11.12.2007 and the respondents are not permitting them to appear therein on the premise that none of the petitioners have cleared two out of eight subjects i.e. 25% of all the eight papers by securing minimum 30% marks in theory and 30% in practical / sessional individually and 40% in aggregate.

When confronted, the learned counsel for the respondents did not deny that such of the students who have cleared in two subjects out of 8 subjects of first and second semester of B.E. in the main examination are being allowed to appear in the examination of third semester. In view of this fact, I do not find the case of such petitioners who may eventually be declared pass in the result of revaluation of their answer-sheet in one or more number of subjects, thus making total number of subjects / papers cleared by them

two out of eight in any manner distinguishable from those who have cleared in two subjects and permitted to take examination of third semester. Ad they in any case stand on much better footing than those who have not been able to clear a single paper in the main examination. Action of the respondents in refusing to permit the petitioners to appear in examination does not therefore stand the test of reasonableness. Following part of the notification dated 3.11.2007 which purports to deny permission to the petitioners even if they are declared pass in the result of revaluation in such number of subjects which make them eligible for promotion to higher class as a consequence of revaluation is therefore liable to be struck down as being discriminatory and arbitrary and violative of Article 14 of the Constitution of India:-

> "A decision in this regard has been taken that status of such Year Back students of all the courses of Academic Session 2006-07 will not change after revaluation i.e., they will remain year back students even if they are declared passed in the result of revaluation in such number of subject(s), which make them eligible for promotion to higher classes as a consequence of revaluation. However, such students will not require to appear again in the subjects in which they have been declared pass in revaluation."

Aforesaid order has to be quashed because it debars the petitioners from appearing in the examination of third semester even though upon result of their revaluation being declared, they would also have cleared two papers out of eight just like their fellow students who appeared in the main examination and could clear only two subjects out of eight and were on that basis permitted to appear in examination of the third semester. The respondents having provided for the system of revaluation and

accepted the application of the petitioners to get their answer books revalued cannot deny the benefit of such revaluation to the petitioners, if eventually they are declared pass in one or more number of such subjects. I therefore deem it appropriate to direct the respondents to permit such of the petitioners, who have already passed in at least one of the eight papers to appear in the examination of third semester. However, the examination attempted pursuant to this order shall be treated as valid only upon each of the petitioners clearing second paper in the result of the revaluation that may be declared. If upon declaration of the result of the revaluation, any of the petitioner is found not to have cleared at least one more subject, examination attempted by him pursuant to this order shall be liable to be treated as cancelled. Result of the examination shall be declared only upon the

petitioners satisfying the respondent University about their clearance in two out of eight subjects of first and second semester of B.E. Ist Year.

All the aforesaid writ petitions are accordingly allowed with the aforementioned direction. The impugned order dated 3.11.2007 is quashed and set aside to the extent it denies permission to the petitioner to appear in the examination of third semester even if they have cleared two papers out of eight of the first and second semester.

(MOHAMMAD RAFIQ), J.

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